

has applied for a taxpayer identification number or intends to apply for a number in the near future, and that the payee understands that if the payee does not provide a number to the payor within 60 days, the payor is required under section 3406 to withhold 31 percent of any reportable payment thereafter made to the payee until the payor receives a number, and 31 percent of a withdrawal to the extent of reportable payments made to the payee during the 60-day period, as described in paragraph (a) of this section. Language that is substantially similar to the awaiting-TIN certification on Form W-9 will satisfy the requirements of this paragraph (d).

(e) *Form for awaiting-TIN certificate.* A payor may use Form W-9 for the awaiting-TIN certificate, or a payor may include language that is substantially similar to the awaiting-TIN certification on Form W-9 in any other document of the payor. See § 31.3406(h)-3, which provides that Form W-9 is the prescribed form but permits use of substitute forms, and specifies the length of time the payor is required to retain the form. If Form W-9 is used, the payee should write "Applied For" in the space reserved for the taxpayer identification number.

[T.D. 8637, 60 FR 66129, Dec. 21, 1995]

§ 31.3406(h)-1 Definitions.

(a) *In general.* For purposes of section 3406 and the regulations thereunder, the definitions of this section apply.

(b) *Taxpayer identification number—(1) In general.* *Taxpayer identification number* means the identifying number assigned to a person under section 6109 (relating to identifying numbers, generally a nine-digit social security number for an individual and a nine-digit employer identification number for a nonindividual, e.g., a corporation, partnership, trust, or estate). An obviously incorrect number is not considered a taxpayer identification number. See § 31.6011(b)-2 and § 301.6109-1 of this chapter for provisions relating to obtaining a taxpayer identification number.

(2) *Obviously incorrect number.* *Obviously incorrect number* means a number that does not contain nine digits or a

number that includes an alpha character as one of the nine digits.

(c) *Broker.* *Broker* is defined in section 6045(c)(1) and § 1.6045-1(a)(1) of this chapter. If there could be more than one broker with respect to any acquisition, only the broker having the closest contact (as determined under 1.6045-1(c)(3)(iii) and (iv) of this chapter) with the payee is treated as a broker. In the case of any instrument, the term *broker* does not include any person who is the payor with respect to the instrument as described in § 31.3406(a)-2.

(d) *Readily tradable instrument.* *Readily tradable instrument* means—

(1) Any instrument that is part of an issue any portion of which is traded on an established securities market (within the meaning of section 453(f)(5)); or

(2) Any instrument that is regularly quoted by brokers or dealers making a market.

(e) *Day.* *Day* means a calendar day unless specified otherwise under any section of the regulations under section 3406. For example, see §§ 31.3406(d)-5(a) and 31.3406(g)-3(a)(2).

(f) *Business day.* *Business day* means any day other than a Saturday, Sunday, or legal holiday (within the meaning of section 7503).

[T.D. 8637, 60 FR 66130, Dec. 21, 1995; 61 FR 12135, Mar. 25, 1996, as amended by T.D. 9010, 67 FR 48760, July 26, 2002]

§ 31.3406(h)-2 Special rules.

(a) *Joint accounts—(1) Relevant name and taxpayer identification number combination.* For purposes of identifying the account subject to withholding under sections 3406(a)(1) (B) and (C), the relevant name and taxpayer identification number combination is that which is used for information reporting purposes.

(2) *Optional rule for accounts subject to backup withholding under section 3406(a)(1) (B) or (C) where the names are switched.* See § 31.3406(d)-5(c)(4)(iii) under which a payor may withhold under section 3406(a)(1)(B) as required even though the names or taxpayer identification numbers on the account have been switched. The rules under § 31.3406(d)-5(c)(4)(iii) may be applied comparably by a payor who is required to withhold under section 3406(a)(1)(C).